

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California
INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES AND
THOMES CREEK WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble	1
	Explanatory Recitals	1
1	Definitions	4
2	Term of Contract - Right to Use of Water	7
3	Water to Be Made Available and Delivered to the Contractor	12
4	Time for Delivery of Water	14
5	Point of Diversion and Responsibility for Distribution of Water	15
6	Measurement of Water Within the District	17
7	Rates and Method of Payment for Water	19
8	Non-Interest Bearing Operation and Maintenance Deficits	23
9	Transfers or Exchanges of Water	23
10	Application of Payments and Adjustments	24
11	Temporary Reductions--Return Flows	24
12	Water Shortage and Apportionment	25
13	Unavoidable Groundwater Percolation	26
14	Compliance with Federal Reclamation Law	27
15	Water and Air Pollution Control	27
16	Quality of Water	27
17	Water Acquired by the Contractor Other than from the United States	28
18	Opinions and Determinations	29
19	Charges for Delinquent Payments	29
20	Equal Opportunity	30

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
21	General Obligation--Benefits Conditioned Upon Payment	31
22	Compliance with Civil Rights Laws and Regulations	32
23	Privacy Act Compliance	32
24	Contractor to Pay Certain Miscellaneous Costs	33
25	Water Conservation	33
26	Existing or Acquired Water or Water Rights	35
27	Operation and Maintenance by Non-Federal Entity	36
28	Contingent on Appropriation or Allotment of Funds	37
29	Books Records and Reports	37
30	Assignment Limited--Successors and Assigns Obligated	38
31	Severability	38
32	Officials Not to Benefit	39
33	Changes in Contractor's Boundaries	39
34	Notices	39
	Signature Page	40
	Exhibit A	
	Exhibit B	

Contract No.
14-06-200-5271A-IR5

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INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
THOMES CREEK WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE

THIS CONTRACT, made this 6th day of March 2001, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but not limited to, the acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), as amended and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as the Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, and THOMES CREEK WATER DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its principal place of business in Corning, California;

WITNESSETH, That:

EXPLANATORY RECITALS

WHEREAS, the United States has constructed and is operating the Central Valley Project, California for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and

1 restoration, generation and distribution of electric energy, salinity control, navigation and other
2 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and
3 the San Joaquin River and their tributaries; and

4 WHEREAS, the United States constructed the Red Bluff Diversion Dam, and
5 Corning Canal and related delivery facilities including pumping plants, hereinafter collectively
6 referred to as the Canal Facilities, which will be used in part for the furnishing of water to the
7 Contractor pursuant to the terms of this interim renewal contract; and

8 WHEREAS, the Contractor and the United States entered into Contract No. 14-
9 06-200-5271A on February 10, 1971, which provided the Contractor Central Valley Project
10 water from the Canal Facilities to February 28, 1995, and under which the initial date of water
11 delivery was April 1, 1971; and

12 WHEREAS, the Contractor and the United States entered into interim renewal
13 contract(s) identified as Contract No(s). 14-06-200-5271A-IR1, 14-06-200-5271A-IR2, as
14 amended, 14-06-200-5271A-IR3, and 14-06-200-5271A-IR4, the latter of which is hereinafter
15 referred to as the Existing Interim Renewal Contract, which provided for the continued water
16 service to the Contractor from December 1, 2000 through February 28, 2001; and

17 WHEREAS, the Contractor has requested a subsequent interim renewal contract
18 pursuant to the Existing Interim Renewal Contract, Federal Reclamation law and the laws of the
19 State of California, for water service from the Central Valley Project; and

20 WHEREAS, the United States has determined that the Contractor has to date
21 fulfilled all of its obligations under the Existing Interim Renewal Contract; and

1 WHEREAS, The Contracting Officer has determined that the Contractor has the
2 capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable
3 and beneficial use for, the quantity of Project Water to be made available to it pursuant to this
4 interim renewal contract; and

5 WHEREAS, rights of renewal of Contract No. 14-06-200-5271A, and to convert
6 said contract to a contract as provided by subsection (d), Section 9 of the Act of August 4, 1939
7 (53 Stat. 1187) are set forth in said contract; and

8 WHEREAS, Section 3404 of the CVPIA, precludes long-term renewal of water
9 service contracts until the completion of appropriate environmental documentation, including a
10 programmatic environmental impact statement ("PEIS") pursuant to the National Environmental
11 Policy Act analyzing the direct and indirect impacts and benefits of implementing the CVPIA
12 and the potential renewal of all existing contracts for Project Water; and

13 WHEREAS, in order to continue water service provided under Project water
14 service contracts that expire prior to the completion of the PEIS, the United States intends to
15 execute interim renewal contracts for a period not to exceed three (3) Years in length, and for
16 successive interim periods of not more than two (2) Years in length, until appropriate
17 environmental documentation, including the PEIS, is finally completed, at which time the
18 Secretary shall, pursuant to Federal Reclamation law, upon request of the Contractor, enter into a
19 long-term renewal contract for a period of twenty-five (25) Years; and may thereafter renew such
20 long-term renewal contracts for successive periods not to exceed twenty-five (25) Years each;
21 and

WHEREAS, the Secretary intends to assure uninterrupted water service and continuity of contract through the process set forth in Article 2 hereof; and

WHEREAS, the United States is willing to renew the Existing Interim Renewal Contract pursuant to section 3404(c)(1) of the CVPIA on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

1. When used herein unless otherwise distinctly expressed, or manifestly incompatible with the intent hereof, the term:

(a) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(b) "Charges" shall mean the payments in addition to the Rates determined annually by the Contracting Officer, required by the Federal Reclamation law, including Section 3407 of the CVPIA;

(c) "Contractor's Boundaries" shall mean the area to which the Contractor is permitted to provide Project Water under this interim renewal contract identified in Exhibit "A", which area and exhibit may be revised without amending this contract if such revisions are acceptable to the Contracting Officer;

(d) "CVPIA" shall mean the Central Valley Project Improvement Act, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

1 (e) "Delivered Water" shall mean Project Water made available to
2 the Contractor and diverted at the point(s) of delivery approved by the Contracting
3 Officer;

4 (f) "Eligible Lands" shall mean all lands to which Irrigation Water may be
5 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12,
6 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

7 (g) "Excess Lands" shall mean all lands defined as excess in Section 204 of
8 the RRA, other than those lands exempt from acreage limitation under Federal
9 Reclamation law;

10 (h) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3)
11 or 202(3) of the RRA, whichever is applicable;

12 (i) "Ineligible Lands" shall mean all lands to which Irrigation Water may not
13 be delivered in accordance with Section 204 of the RRA;

14 (j) "Irrigation Water" shall mean Project Water which is used primarily in the
15 production of agricultural crops or livestock, including domestic use incidental thereto,
16 and watering of livestock;

17 (k) "Landholder" shall mean an individual or entity attributed with the total
18 irrigable acreage of one or more tracts of land situated in one or more districts owned
19 and/or operated under a lease which is served with Irrigation Water pursuant to a contract
20 with the United States;

1 (l) "M&I Water" shall mean water made available from the Project other than
2 Irrigation Water. M&I Water shall include water used for purposes such as the watering
3 of landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment
4 or water delivered to landholdings operated in units of less than five (5) acres unless the
5 Contractor establishes to the satisfaction of the Contracting Officer that the use of water
6 delivered to any such landholding is a use described in subdivision (j) of this Article;

7 (m) "O&M" shall mean normal and reasonable care, control, operation, repair,
8 replacement and maintenance of Project facilities;

9 (n) "Operating Non-Federal Entity" shall mean a Non-Federal entity which
10 has the obligation to operate and maintain all or a portion of the Canal Facilities pursuant
11 to an agreement with the United States;

12 (o) "Project" shall mean the Central Valley Project owned by the United
13 States and operated by the Department of the Interior, Bureau of Reclamation;

14 (p) "Project Water" shall mean all water that is developed, diverted, stored, or
15 delivered by the United States in accordance with the statutes authorizing the Project and
16 in accordance with the terms and conditions of applicable water rights permits and
17 licenses acquired by and/or issued to the United States pursuant to California law;

18 (q) "Rates" shall mean the payments determined annually by the Contracting
19 Officer in accordance with the then current applicable water ratesetting policies for the
20 Project;

1 (r) "Secretary" or "Contracting Officer" shall mean the Secretary of the
2 United States Department of the Interior or his duly authorized representative;

3 (s) "Year" shall mean the period from and including March 1 of each
4 Calendar Year through the last day of February of the following Calendar Year.

5 TERM OF CONTRACT - RIGHT TO USE OF WATER

6 2. (a) This interim renewal contract shall be effective from March 1, 2001 and
7 shall remain in effect through February 28, 2002, and thereafter will be renewed as described in
8 this article. Except as provided in subdivision (b) of this Article, until completion of all
9 appropriate environmental review, and provided that the Contractor has complied with all the
10 terms and conditions of the interim renewal contract in effect for the period immediately
11 preceding the requested successive interim renewal contract, this interim renewal contract will be
12 renewed, upon request of the Contractor, for successive interim periods each of which shall be no
13 more than two (2) Years in length. Also, except as provided in subdivision (b) of this Article, in
14 order to promote orderly and cost effective contract administration, the terms and conditions in
15 subsequent interim renewal contracts shall be identical to the terms and conditions in the interim
16 renewal contract immediately preceding the subsequent interim renewal contract: Provided,
17 however, That each party preserves the right to propose modification(s) in any interim renewal
18 contract other than those described in subdivision (b) of this Article, in which case the parties
19 shall negotiate in good faith appropriate modification(s) to be included in any successive interim
20 renewal contracts. Said modification(s) of each successive interim renewal contract shall be
21 agreed upon within a reasonable time prior to the expiration of the then existing interim renewal
22 contract. Nothing in this Article shall in any way alter the obligation that, upon final completion

1 of the PEIS and any necessary supplemental environmental documentation, the Secretary shall,
2 pursuant to Federal Reclamation law, upon request of the Contractor, enter into a long-term
3 renewal contract for a period of twenty-five (25) Years and may thereafter renew such long-term
4 renewal contracts for successive periods not to exceed twenty-five (25) Years each. The
5 Contractor asserts that Contract No. 14-06-200-5271A and existing law go beyond the preceding
6 sentence to give it enforceable rights to successive long-term renewal contracts. The Contracting
7 Officer disagrees with that assertion. The parties agree that this interim renewal contract
8 preserves the rights and positions of the parties and that the omission of language in this interim
9 renewal contract setting out the rights asserted by the Contractor to successive renewals is not
10 intended to be, nor shall it be interpreted as, a waiver of any such rights to the extent any such
11 rights are later determined to exist by a court of competent jurisdiction or by mutual agreement of
12 the parties. If a court of competent jurisdiction or the parties by mutual agreement determine that
13 incorporation of such language in this interim renewal contract is necessary to preserve such
14 rights, this interim renewal contract shall be construed as incorporating such language as though
15 fully set forth herein as of the effective date hereof.

16 (b) The parties anticipate that they will engage in good faith negotiations
17 intended to permit the execution of a twenty-five (25) Year long-term renewal contract
18 contemplated by Section 3404 (c) of the CVPIA, hereinafter referred to as a “long-term renewal
19 contract”, by the end of the term hereof. The parties recognize the possibility that this schedule
20 may not be met. Accordingly:

1 (1) In the event (i) the Contractor and Contracting Officer have
2 reached agreement on the terms of the Contractor's long-term renewal contract or (ii) the
3 Contractor and Contracting Officer have not completed the negotiations on the Contractor's
4 long-term renewal contract, believe that further negotiations on that contract would be beneficial,
5 and mutually commit to continue to negotiate to seek to reach agreement, but (iii) all
6 environmental documentation required to allow execution of the Contractor's long-term renewal
7 contract by both parties has not been completed in time to allow execution of the Contractor's
8 long-term renewal contract by November 30, 2001, then (iv) the parties will expeditiously
9 complete the environmental documentation required of each of them in order to execute the
10 Contractor's long-term renewal contract at the earliest practicable date. In addition, the
11 Contractor's then current interim renewal contract will be renewed without change upon the
12 request of either party through the agreed-upon effective date of the Contractor's long-term
13 renewal contract or, in the absence of agreement on the terms of the Contractor's long-term
14 renewal contract, through the succeeding February 28.

15 (2) Provided that this interim renewal contract is not subject to
16 renewal under the terms described in subdivision (1) of this Article, if a party determines that the
17 parties have reached an impasse which they have been unable to resolve and which precludes
18 agreement on the long-term renewal contract, that party may notify the other that it has concluded
19 that there is no reasonable likelihood of reaching agreement on the terms of a long-term renewal
20 contract. In the event of such notice, the parties will immediately agree to a schedule and process
21 for negotiating the terms (other than any terms that would impair continuity of water supply or

1 continuity of contract) of and executing an interim renewal contract; provided that neither party
2 will propose for inclusion in the interim renewal contract any provision not previously included
3 in an existing interim renewal contract which it had previously proposed for inclusion in the
4 long-term renewal contract and which was the subject of an impasse in the long-term renewal
5 contract negotiations. The schedule will provide for completion of the negotiations of the terms
6 of that contract by February 1, 2002, and for execution of the contract on or about February 15,
7 2002. The parties each acknowledge the right of either party to seek judicial relief in connection
8 with any impasse reached in connection with negotiation of the long-term renewal contract
9 and/or an interim renewal contract that would become effective on or after February 28, 2002.

10 (c) The parties acknowledge that the Contractor asserts that it is entitled as a
11 matter of law to an interim renewal contract of longer duration than twelve (12) months, and that
12 the Contracting Officer asserts that it is under no obligation to provide the Contractor with an
13 interim renewal contract of any particular duration. Accordingly, the parties further acknowledge
14 that (i) the foregoing process represents a mutual accommodation to facilitate their joint desire to
15 proceed with the development of a long-term renewal contract in an expeditious and orderly
16 manner, (ii) they each preserve their respective rights and positions relative to the entitlement of
17 the Contractor to subsequent interim renewal contracts should they become necessary, and the
18 terms thereof, and (iii) their agreement to the process and interim renewal contract terms
19 described above is in no way intended to be, nor will it be interpreted as, a waiver of any such
20 rights or positions, all of which are and will be expressly preserved.

1 (d) The omission of language in this interim renewal contract providing for
2 conversion of this interim renewal contract or any subsequent renewals thereof to a repayment
3 contract, pursuant to the Act of July 2, 1956 (70 Stat. 483), shall not prejudice the Contractor's
4 right to assert a right to have such language included in subsequent renewals of this interim
5 renewal contract or to exercise such conversion, all as provided by law, or to negotiate the
6 language regarding such conversion to be included in subsequent renewal contracts.

7 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

8 3. (a) Subject to the provisions set forth in Articles 11 and 12 hereof, and
9 consistent with applicable State water rights, permits and licenses, the Contractor is entitled to,
10 and the Contracting Officer shall be obligated to make available to the Contractor up to 6,400
11 acre-feet of Project Water for irrigation and/or municipal and industrial purposes during the term
12 of this interim renewal contract. The quantity of Project Water delivered to the Contractor in
13 accordance with this Article 3(a) in any Year shall be scheduled and paid for pursuant to the
14 provisions of Articles 4 and 7 hereof, and shall not exceed the quantity of Project Water the
15 Contractor intends to put to reasonable beneficial use within the Contractor's Boundaries or sold,
16 transferred, or exchanged pursuant to Article 9 during the term of this interim renewal contract.

1
2 (b) The Contractor shall utilize the Project Water made available to it pursuant
3 to this interim renewal contract in accordance with all applicable requirements of any Biological
4 Opinion addressing the execution of this interim renewal contract developed pursuant to Section
5 7 of the Endangered Species Act of 1973 as amended, and in accordance with environmental
6 documentation as may be required for specific activities, including conversion of Irrigation Water
7 to M&I Water.

8 (c) The Contractor shall make reasonable and beneficial use of Project Water
9 or other water furnished pursuant to this interim renewal contract.

10 (d) If the Contracting Officer determines that Project Water, or other water
11 available to the Project, can be made available to the Contractor in addition to the quantity of
12 Project Water made available to the Contractor pursuant to subdivision (a) of this Article, the
13 Contracting Officer shall so notify the Contractor. If the Contractor requests the delivery of any
14 quantity of such water, the Contracting Officer shall make such water available to the Contractor
15 in accordance with applicable statutes, regulations, guidelines and policies.

16 (e) If the Contractor requests permission to reschedule for use during the
17 subsequent Year some or all of the Project Water made available to the Contractor during the
18 current Year or to use, during the current Year, that quantity of Project Water the United States
19 has agreed to make available to the Contractor during the subsequent Year, the Contracting
20 Officer may permit such uses in accordance with applicable statutes, regulations, guidelines and
21 policies.

1 (f) The Contractor's right pursuant to Federal Reclamation law and applicable
2 State law to the beneficial use of water furnished pursuant to this interim renewal contract, any
3 subsequent interim renewal contract and, as described in Article 2(a), any long-term renewal
4 contract, shall not be disturbed so long as the Contractor shall fulfill all of its obligations under
5 this interim renewal contract and any such renewal thereof. Nothing in the preceding sentence
6 shall affect the Contracting Officer's ability to impose shortages under Article 12(b) of this
7 interim renewal contract and the applicable provisions of any such renewal thereof.

8 (g) Notwithstanding subdivisions (j) and (l) of Article 1, Project Water
9 furnished to the Contractor pursuant to this interim renewal contract may be delivered for
10 purposes other than those described in subdivisions (j) and (l) of Article 1 upon written approval
11 by the Contracting Officer in accordance with the terms and conditions of such approval.

12 (h) The Contractor may request, in writing, and the Contracting Officer may
13 approve, in writing, the Contractor's first or initial use of any Project Water to which it is entitled
14 under subdivision (a) of this Article 3 as M&I Water; Provided, that any requirements of Federal
15 Law, including without limitation those set forth in subdivision (b) of Article 3 which apply to
16 the delivery and use of such quantities of Project Water as M&I Water have been met; Provided
17 further, That no additional approval of the Contracting Officer shall be required for the
18 continuing use of water as M&I Water.

19 TIME FOR DELIVERY OF WATER

20 4. (a) On or about February 15, of each Calendar Year, the Contracting Officer
21 shall declare the amount of Project Water estimated to be made available to the Contractor

1 pursuant to this interim renewal contract for the upcoming Year. The declaration will be updated
2 monthly, as necessary, based on current hydrologic conditions. The Contracting Officer shall
3 make available the forecast of Project operations, with relevant supporting information, upon the
4 written request of the Contractor or its representatives. Upon written request of the Contractor,
5 the Contracting Officer shall provide the basis of the estimate which shall include, but not be
6 limited to, a monthly pumping forecast for the O'Neill Pumping Plant, the projected carryover of
7 Project reservoirs, projected CVPIA impacts, projected Endangered Species Act and all other
8 regulatory impacts.

9 (b) On or before each March 1, the Contractor shall submit to the Contracting
10 Officer and at such other times as necessary, a written schedule, satisfactory to the Contracting
11 Officer, showing the times, and quantities of Project Water to be delivered by the United States
12 to the Contractor during the upcoming Year pursuant to this interim renewal contract, and,
13 consistent with subdivision (a) of Article 3 herein.

14 (c) Subject to the conditions set forth in subdivision (a), Article 3, the United
15 States shall deliver Project Water to the Contractor in accordance with the initial schedule
16 submitted by the Contractor pursuant to subdivision (b) of this Article, or any revision(s) thereto
17 submitted within a reasonable time prior to the date(s) on which the requested change(s) is/are to
18 be implemented.

19 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

20 5. (a) The Project Water to be furnished to the Contractor pursuant to this
21 interim renewal contract shall be made available to the Contractor at approved turnouts on the

1 Canal Facilities and any additional point or points of delivery either on Project facilities or
2 another location or locations mutually agreed to in writing by the Contracting Officer and the
3 Contractor. The United States shall furnish such power as may be necessary to pump Project
4 Water at the existing Corning Canal side pumping plants and at existing relift stations at heads
5 and elevations sufficient to irrigate by gravity all areas within the Contractor's Boundaries below
6 elevation 350 (MSL).

7 (b) The Contracting Officer shall make all reasonable efforts to maintain
8 sufficient flows and levels of water in the Canal Facilities to furnish Project Water to the
9 Contractor at the full design capacity of the turnout(s) established as a delivery point(s) pursuant
10 to subdivision (a) of this Article. The parties acknowledge that it may be necessary from time to
11 time to shut down the canal for maintenance or emergencies. Except in the case of emergency,
12 the Contracting Officer shall consult with the Contractor to schedule the shut down at such times
13 and for such duration as will allow for the work to be accomplished completely and efficiently,
14 and with a minimum of disruption of water service to the Contractor. In this regard, shut downs
15 will, to the extent reasonably possible, be limited to the months of December and January.

16 (c) Irrigation Water furnished to the Contractor pursuant to this interim
17 renewal contract shall be delivered by the Contractor in accordance with any applicable land
18 classification provisions of Federal Reclamation law and the associated regulations. Project
19 Water shall not be delivered to land outside the Contractor's Boundaries unless approved in
20 advance by the Contracting Officer.

1 (d) All Project Water delivered to the Contractor pursuant to this interim
2 renewal contract shall be measured and recorded with equipment furnished, installed, operated
3 and maintained by the United States or the responsible Operating Non-Federal Entity at the point
4 or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of
5 either party to this interim renewal contract, the Contracting Officer shall investigate the accuracy
6 of such measurements and shall take any necessary steps to adjust any errors appearing therein.
7 The Contractor shall advise the Contracting Officer on or before the 10th calendar day of each
8 month of the quantity of M&I Water taken during the preceding month.

9 (e) Neither the United States nor any Operating Non-Federal Entity shall be
10 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water
11 made available to the Contractor pursuant to this interim renewal contract beyond the delivery
12 points specified in subdivision (a) of this Article. The Contractor shall indemnify the United
13 States its officers, employees, agents and assigns on account of damage or claim of damage of
14 any nature whatsoever for which there is legal responsibility, including property damage,
15 personal injury or death arising out of or connected with the control, carriage, handling, use,
16 disposal, or distribution of such Project Water beyond such delivery points, except for any
17 damage or claim arising out of (i) acts performed by the United States or any of its officers,
18 employees, agents or assigns, including any responsible Operating Non-Federal Entity, with the
19 intent of creating the situation resulting in any damage or claim, (ii) willful misconduct of the
20 United States or any of its officers, employees, agents, or assigns, including any responsible

1 Operating Non-Federal Entity, or (iii) negligence of the United States or any of its officers,
2 employees, agents or assigns including any responsible Operating Non-Federal Entity.

3 MEASUREMENT OF WATER WITHIN THE DISTRICT

4 6. (a) As of the date hereof, the Contractor measures all deliveries of Irrigation
5 Water at its agricultural turnouts, and the Contracting Officer acknowledges that such water
6 measurement devices are acceptable and are in use. All new Project Water delivery systems
7 installed within the Contractor's Boundaries after the effective date of this interim renewal
8 contract shall also be equipped with water measuring devices acceptable to the Contracting
9 Officer. The Contractor shall be responsible for installing, operating, and maintaining and
10 repairing all such measuring devices and implementing all such water measuring methods at no
11 cost to the United States. The Contractor shall use the information obtained from such water
12 measuring devices or water measuring methods to ensure proper management of the water; to bill
13 water users for water delivered by the Contractor; and, if applicable, to record water delivered for
14 municipal and industrial purposes by customer class as defined in its water conservation plan.
15 Nothing herein contained, however, shall preclude the Contractor from establishing and
16 collecting any charges, assessments or other revenues authorized by California law. The
17 Contractor shall include a summary of its annual surface water deliveries in the annual report
18 described in Article 25(d).

19 (b) Omitted.

1 (c) All new Project Water delivery systems installed within the Contractor's
2 Boundaries after the effective date of this interim renewal contract shall also comply with the
3 measurement provisions described in subdivision (a) of this Article.

4 (d) The Contractor shall inform the Contracting Officer and the State of
5 California in writing by April 30 of each Year of the monthly volume of surface water delivered
6 within the Contractor's Boundaries during the previous Year.

7 (e) The Contractor shall be responsible for ascertaining and reporting to the
8 Contracting Officer whether Delivered Water is put to use as Irrigation Water or M&I Water,
9 irrespective of the size of the landholding where the water is used, so that the Contracting Officer
10 can apply the appropriate Rates and Charges.

11 RATES AND METHOD OF PAYMENT FOR WATER

12 7. (a) The Contractor shall pay the United States in monthly payments as
13 provided in this Article for the quantities of Delivered Water furnished to the Contractor pursuant
14 to this interim renewal contract. Such payments shall consist of the applicable Rates and
15 Charges determined annually in accordance with applicable Federal law and associated
16 regulations. The Rates and Charges applicable upon execution of this interim renewal contract
17 are set forth in Exhibit "B."

18 (b) The Contracting Officer shall notify the Contractor of the Rates and
19 Charges as follows:

20 (1) Prior to July 1, of each Calendar Year, the Contracting Officer
21 shall provide the Contractor the preliminary calculation of the Charges that will be applied for

1 the period October 1, of the current Calendar Year, through September 30, of the following
2 Calendar Year, and identify the statutes, regulations and guidelines used as the basis for such
3 calculations. On or before September 15, of each Calendar Year, the Contracting Officer shall
4 notify the Contractor in writing of the Charges to be in effect during the period October 1, of the
5 current Calendar Year, through September 30, of the following Calendar Year, and such
6 notification shall revise Exhibit "B."

7 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
8 shall make available to the Contractor an estimate of the Rates of payment for the following Year
9 and the computations and cost allocations upon which those Rates are based. The Contractor
10 shall be allowed not less than two months to review and comment on such computations and cost
11 allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the
12 Contractor with the final Rates to be in effect for the upcoming Year, and such notification shall
13 revise Exhibit "B."

14 (c) At the time the Contractor submits the initial schedule for the delivery of
15 Project Water for each Year pursuant to Article 4(b) of this interim renewal contract, the
16 Contractor shall pay the United States the total amount payable pursuant to the applicable Rate(s)
17 for all Project Water scheduled to be delivered pursuant to this interim renewal contract during
18 the first two (2) calendar months of the Year. Before the end of the first month or part thereof of
19 the Year, and before the end of each calendar month thereafter, the Contractor shall pay pursuant
20 to the applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this interim
21 renewal contract during the second month immediately following. Adjustments between the

1 payments for the scheduled amount of Project Water and the appropriate payments for quantities
2 of Delivered Water furnished pursuant to this interim renewal contract each month shall be made
3 before the end of the following month: Provided, That any revised schedule submitted by the
4 Contractor pursuant to Article 4 which increases the amount of Project Water to be delivered
5 pursuant to this interim renewal contract during any month shall be accompanied with
6 appropriate payment for Rates to assure that Project Water is not furnished to the Contractor in
7 advance of such payment. In any month in which the quantity of Delivered Water furnished to
8 the Contractor pursuant to this interim renewal contract equals the quantity of Project Water
9 scheduled and paid for by the Contractor, no additional Project Water shall be made available to
10 the Contractor unless and until payment of Rates for such additional Project Water is made.
11 Final adjustment between the payments of Rates for the Project Water scheduled and the
12 quantities of Delivered Water furnished during each Year pursuant to its contract shall be made
13 as soon as possible but no later than April 30th of the following Year.

14 (d) The Contractor shall pay all Charges owing for Delivered Water before the
15 end of the month following the month of delivery. Such amounts shall be consistent with the
16 quantities of Irrigation Water and M&I Water shown in the United States' water delivery report
17 for the subject month. The water delivery report shall be regarded by the Contractor as a bill for
18 the payment of appropriate Charges. Any monthly adjustment for overpayment or underpayment
19 of Charges shall be accomplished through the adjustment of Charges due to the United States in
20 the next month. By March 31, of each Year, the Contractor shall make any additional payment
21 of Charges it is obligated to make for Delivered Water furnished to the Contractor pursuant to its

1 contract for the previous Year. The amount to be paid for past due payment of Charges shall be
2 computed pursuant to Article 19 of this interim renewal contract.

3 (e) The Contractor shall pay for any Project Water provided under Article 3(d)
4 or 3(e) as determined by the Contracting Officer pursuant to applicable statutes, regulations,
5 guidelines and policies.

6 (f) Payments to be made by the Contractor to the United States under this
7 interim renewal contract may be paid from any revenues available to the Contractor.

8 (g) Revenues received by the United States pursuant to this interim renewal
9 contract shall be allocated and applied in accordance with Federal Reclamation law, including
10 but not limited to, subsection 3 of Section 1 of the Act of July 2, 1956 (70 Stat. 483), and
11 subsection (f) of Section 3405, subsection (c)(1) of Section 3406 and subsection (d)(2)(A) of
12 Section 3407 of the CVPIA, and the associated regulations, including but not limited to, the
13 Project Irrigation Water ratesetting policy and the Project M&I ratesetting policy promulgated
14 pursuant to the Administrative Procedures Act.

15 (h) At the Contractor's request, the Contracting Officer shall provide to the
16 Contractor an accounting of all of the expenses allocated and the disposition of all revenues
17 received pursuant to this interim renewal contract in sufficient detail to allow the Contractor to
18 determine that the allocation of expenses and disposition of all revenues received was
19 accomplished in conformance with Federal Reclamation law and the associated regulations. The
20 Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any
21 discrepancies or disputes arising out of said accounting of the Contractor's review thereof.

1 (i) The parties acknowledge and agree that the efficient administration of this
2 interim renewal contract is their mutual goal. Recognizing that experience has demonstrated that
3 mechanisms, policies and procedures used for establishing Rates and Charges, and/or for making
4 and allocating payments, other than those set forth in this Article would be in the mutual best
5 interest of the parties, it is expressly agreed that the parties may enter into agreements for
6 alternative mechanisms, policies and procedures for any of those purposes while this interim
7 renewal contract is in effect without amending this contract.

8 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

9 8. The Contractor and the Contracting Officer concur that at the time of execution of
10 this interim renewal contract, the Contractor has no non-interest bearing operation and
11 maintenance deficits and shall have no further liability therefor.

12 TRANSFERS OR EXCHANGES OF WATER

13 9. (a) The right to Project Water provided for in this interim renewal contract
14 may be sold, transferred, or exchanged to others for beneficial uses within the State of California
15 if such sale, transfer or exchange is authorized by applicable Federal laws, State laws, and
16 applicable guidelines or regulations then in effect. The right to sell, transfer or exchange Project
17 Water shall include, and the Contracting Officer shall apply this Article in a manner that does not
18 impede or restrict, lawful short-term sales, transfers, or exchanges of the type the Contractor
19 historically carried out with approval of the Contracting Officer under Contract No. 14-06-200-
20 5271A. No sale, transfer or exchange of the right to Project Water under this interim renewal
21 contract may take place without the prior written approval of the Contracting Officer.

1 (b) For the purpose of determining whether section 3405 (a)(1)(M) of the
2 CVPIA applies to the Contractor as a transferor or transferee of Project Water, the Contracting
3 Officer acknowledges that the Contractor is within a county, watershed, or other area of origin, as
4 those terms are utilized under California law, of water that constitutes the natural flow of the
5 Sacramento River and its tributaries above the confluence of the American and Sacramento
6 Rivers.

7 APPLICATION OF PAYMENTS AND ADJUSTMENTS

8 10. (a) The amount of any overpayment by the Contractor shall be applied first to
9 any accrued indebtedness arising out of this interim renewal contract then due and payable by the
10 Contractor. Any amount of such overpayment then remaining shall, at the option of the
11 Contractor, be refunded to the Contractor or credited upon amounts to become due to the United
12 States from the Contractor under the provisions hereof in the following months. With respect to
13 overpayment, such adjustment shall constitute the sole remedy of the Contractor or anyone
14 having or claiming to have the right to the use of any of the water supply provided for herein.

15 (b) All advances for miscellaneous costs incurred for work requested by the
16 Contractor pursuant to Article 24 shall be adjusted to reflect the actual costs when the work has
17 been completed. If the advances exceed the actual costs incurred, the difference will be refunded
18 to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be
19 billed for the additional costs pursuant to Article 24.
20
21

1 TEMPORARY REDUCTIONS--RETURN FLOWS

2 11. (a) Subject to: (i) the authorized purposes and priorities of the Project; and (ii)
3 the obligations of the United States under existing contracts, or renewals thereof, providing for
4 water deliveries from the Project, the Contracting Officer shall make all reasonable efforts to
5 optimize Project Water deliveries to the Contractor as provided in the contract.

6 (b) The United States may temporarily discontinue or reduce the quantity of
7 Project Water to be delivered to the Contractor as herein provided for the purposes of
8 investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or
9 any part thereof necessary for the delivery of Project Water to the Contractor, but so far as
10 feasible the Contracting Officer will give the Contractor due notice in advance of such temporary
11 discontinuance or reduction, except in case of emergency, in which case no notice need be given:
12 Provided, That the United States shall use its best efforts to avoid any discontinuance or
13 reduction in such service. Upon resumption of service after such reduction or discontinuance, and
14 if requested by the Contractor, the United States will, if possible, deliver the quantity of Project
15 Water which would have been delivered hereunder in the absence of such discontinuance or
16 reduction: Provided further, That with respect to any quantity of Project Water not delivered
17 after a discontinuance or reduction the Contractor shall be relieved of its scheduling and payment
18 obligations for such quantity of Project Water.

19 (c) The United States reserves the right to all seepage and return flow water
20 derived from water delivered to the Contractor hereunder which escapes or is discharged beyond
21 the Contractor's Boundaries: Provided, That this shall not be construed as claiming for the

1 United States any right to seepage or return flow being put to reasonable and beneficial use
2 pursuant to this interim renewal contract within the Contractor's Boundaries by the Contractor or
3 those claiming by, through, or under the Contractor.

4 WATER SHORTAGE AND APPORTIONMENT

5 12. (a) In its operation of the Project, the Contracting Officer will use all
6 reasonable means to guard against a condition of shortage in the quantity of water to be made
7 available to the Contractor pursuant to this contract. Insofar as determined by the Contracting
8 Officer to be practicable, the Contracting Officer will, in the event a shortage appears probable,
9 notify the Contractor of such determinations as soon as possible.

10 (b) If there is a reduction in the total water supply available to the Contractor
11 during any Year because of errors in physical operations of the Project, drought, other physical
12 causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer
13 to meet legal obligations, no liability shall accrue against the United States or any of its officers,
14 agents, or employees for any damages, direct or indirect, arising therefrom, so long as actions
15 based upon the opinions or determinations of the Contracting Officer are consistent with the
16 standards in Article 18.

17 (c) In any Year in which there may occur a shortage for any of the reasons
18 specified in subdivision (b) above, the Contracting Officer shall apportion the available Project
19 Water supply among the Contractor and others entitled, under existing contracts and future
20 contracts (to the extent such future contracts are permitted under subsections (a) and (b) of

1 Section 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the
2 contractual obligations of the United States.

3 UNAVOIDABLE GROUNDWATER PERCOLATION

4 13. The Contractor shall not be deemed to have furnished Irrigation Water to Excess
5 Lands or Ineligible Lands within the meaning of this interim renewal contract if such lands are
6 irrigated with groundwater that reaches the underground strata as an unavoidable result of the
7 furnishing of Irrigation Water by the Contractor to Eligible Lands.

8 COMPLIANCE WITH FEDERAL RECLAMATION LAW

9 14. This interim renewal contract shall be implemented in accordance with all
10 applicable provisions of Federal Reclamation law, as amended and supplemented.

11 WATER AND AIR POLLUTION CONTROL

12 15. The Contractor, in carrying out this contract, shall comply with all applicable
13 water and air pollution laws and regulations of the United States and the State of California, and
14 shall obtain all required permits or licenses from the appropriate Federal, State, or local
15 authorities.

16 QUALITY OF WATER

17
18 16. (a) Project facilities used to make available and deliver Project Water to the
19 Contractor pursuant to this interim renewal contract shall be operated and maintained to enable
20 the United States to make available and deliver Project Water to the Contractor in accordance
21 with the water quality standards specified in subsection 2(b) of the Act of August 26, 1937 (50
22 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat. 3050) or other
23 existing Federal laws. The United States is under no obligation to construct or furnish water
24 treatment facilities to maintain or to better the quality of Project Water furnished to the

Contractor pursuant to this contract. The United States does not warrant the quality of Project Water made available and delivered to the Contractor pursuant to this contract.

(b) The operation and maintenance of Project facilities shall be performed in such manner as is practicable to maintain the quality of raw water made available through such facilities at the highest level reasonably attainable as determined by the Contracting Officer. The Contractor shall be responsible for compliance with all State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated through the use of Federal or Contractor facilities or Project Water provided by the Contractor within the Contractor's Boundaries. This Article shall not affect or alter any legal obligations of the Secretary to provide drainage services.

WATER ACQUIRED BY THE CONTRACTOR OTHER THAN
FROM THE UNITED STATES

17. Water or water rights now owned or hereafter acquired by the Contractor other than from the United States and Irrigation Water furnished pursuant to the terms of this interim renewal contract may be simultaneously transported through the same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were constructed without funds made available pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established through the certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of

1 Eligible Lands within the Contractor's Boundaries can be established and the quantity of
2 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such
3 Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-
4 Project water are constructed with funds made available pursuant to Federal Reclamation law, the
5 non-Project water will be subject to Federal Reclamation law, until such funds have been repaid.¹

6 OPINIONS AND DETERMINATIONS

7 18. (a) Where the terms of this interim renewal contract provide for actions to be
8 based upon the opinion or determination of either party to this contract, said terms shall not be
9 construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable
10 opinions or determinations. Both parties, notwithstanding any other provisions of this contract,
11 expressly reserve the right to seek relief from and appropriate adjustment, including monetary
12 damages, for any such arbitrary, capricious or unreasonable opinion or determination. Each
13 opinion or determination by either party shall be provided in a timely manner.

14 (b) The Contracting Officer shall have the right to make determinations
15 necessary to administer this interim renewal contract that are consistent with the expressed and
16 implied provisions of this contract, the laws of the United States and the State of California, and
17 the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall
18 be made in consultation with the Contractor to the extent reasonably practicable.

¹ Possible contractual provisions concerning the transportation of non-Project Water through CVP facilities pursuant to the Warren Act were still under discussion in other divisions at the time that divisional negotiations between the Bureau of Reclamation and the Tehama-Colusa and Corning Canal districts were completed on Sept. 19, 1994. Should Reclamation ultimately agree to include language in this regard in the form of contract for other divisions, then such language will also be included in the contracts of Tehama-Colusa or Corning Canal districts which request it.

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1 (3) The Contractor will send to each labor union or representative of workers
2 with which it has a collective bargaining agreement or other contract or understanding, a
3 notice, to be provided by the Contracting Officer, advising the said labor union or
4 workers' representative of the Contractor's commitments under Section 202 of Executive
5 Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous
6 places available to employees and applicants for employment.
7

8 (4) The Contractor will comply with all provisions of Executive Order No.
9 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant
10 orders of the Secretary of Labor.
11

12 (5) The Contractor will furnish all information and reports required by said
13 amended Executive Order and by the rules, regulations, and orders of the Secretary of
14 Labor, or pursuant thereto, and will permit access to its books, records, and accounts by
15 the Contracting Officer and the Secretary of Labor for purposes of investigation to
16 ascertain compliance with such rules, regulations, and orders.
17

18 (6) In the event of the Contractor's noncompliance with the nondiscrimination
19 clauses of this contract or with any of the said rules, regulations, or orders, this contract
20 may be canceled, terminated, or suspended, in whole or in part, and the Contractor may
21 be declared ineligible for further Government contracts in accordance with procedures
22 authorized in said amended Executive Order, and such other sanctions may be imposed
23 and remedies invoked as provided in said Executive Order, or by rule, regulation, or order
24 of the Secretary of Labor, or as otherwise provided by law.
25

26 (7) The Contractor will include the provisions of paragraphs (1) through (7) in
27 every subcontract or purchase order unless exempted by the rules, regulations, or orders
28 of the Secretary of Labor issued pursuant to Section 204 of said amended Executive
29 Order, so that such provisions will be binding upon each subcontractor or vendor. The
30 Contractor will take such action with respect to any subcontract or purchase order as may
31 be directed by the Secretary of Labor as a means of enforcing such provisions, including
32 sanctions for noncompliance: Provided, however, That in the event the Contractor
33 becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a
34 result of such direction, the Contractor may request the United States to enter into such
35 litigation to protect the interests of the United States.
36

37 GENERAL OBLIGATION--BENEFITS
38 CONDITIONED UPON PAYMENT
39

40 21. (a) The obligation of the Contractor to pay the United States as provided in
41 this contract is a general obligation of the Contractor notwithstanding the manner in which the

1 obligation may be distributed among the Contractor's water users and notwithstanding the default
2 of individual water users in their obligations to the Contractor.

3
4 (b) The payment of charges becoming due hereunder is a condition precedent
5 to receiving benefits under this contract. The United States shall not make water available to the
6 Contractor through project facilities during any period in which the Contractor may be in arrears
7 in the advance payment of water rates due the United States. The Contractor shall not furnish
8 water made available pursuant to this contract for lands or parties which are in arrears in the
9 advance payment of water rates levied or established by the Contractor.

10
11 COMPLIANCE WITH CIVIL RIGHTS LAWS
12 AND REGULATIONS
13

14 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
15 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
16 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
17 laws, as well as with their respective implementing regulations and guidelines imposed by the
18 U.S. Department of the Interior and/or Bureau of Reclamation.

19
20 (b) These statutes require that no person in the United States shall, on the
21 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
22 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
23 receiving financial assistance from the Bureau of Reclamation. By executing this contract, the
24 Contractor agrees to immediately take any measures necessary to implement this obligation,
25 including permitting officials of the United States to inspect premises, programs, and documents.

26
27 (c) The Contractor makes this agreement in consideration of and for the
28 purpose of obtaining any and all Federal grants, loans, contracts, property discounts or other
29 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
30 Reclamation, including installment payments after such date on account of arrangements for
31 Federal financial assistance which were approved before such date. The Contractor recognizes
32 and agrees that such Federal assistance will be extended in reliance on the representations and
33 agreements made in this Article, and that the United States reserves the right to seek judicial
34 enforcement thereof.

35
36 PRIVACY ACT COMPLIANCE
37

38 23. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)
39 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et
40 seq.) in maintaining landholder acreage certification and reporting records, required to be

1 submitted to the Contractor for compliance with sections 206 and 228 of the Reclamation
2 Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.10.

3
4 (b) With respect to the application and administration of the criminal penalty
5 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees
6 responsible for maintaining the certification and reporting records referenced in (a) above are
7 considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

8
9 (c) The Contracting Officer or a designated representative shall provide the
10 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau
11 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--
12 Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of
13 information contained in the landholder's certification and reporting records.

14
15 (d) The Contracting Officer shall designate a full-time employee of the Bureau
16 of Reclamation to be the System Manager who shall be responsible for making decisions on
17 denials pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The
18 Contractor is authorized to grant requests by individuals for access to their own records.

19
20 (e) The Contractor shall forward promptly to the System Manager each
21 proposed denial of access under 43 CFR 2.64; and each request for amendment of records filed
22 under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System
23 Manager with information and records necessary to prepare an appropriate response to the
24 requester. These requirements do not apply to individuals seeking access to their own
25 certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.10, unless the
26 requester elects to cite the Privacy Act as a basis for the request.

27
28 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

29
30 24. In addition to all other payments to be made by the Contractor pursuant to this
31 contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill
32 and detailed statement submitted by the Contracting Officer to the Contractor for such specific
33 items of direct cost incurred by the United States for work requested by the Contractor associated
34 with this interim renewal contract plus a percentage of such direct costs for administrative and
35 general overhead in accordance with applicable Bureau of Reclamation policy and procedures.

1 All such amounts referred to in this Article shall not exceed the amount agreed to in writing in
2 advance by the Contractor. This Article shall not apply to costs for routine contract
3 administration.

4 WATER CONSERVATION

5 25. (a) Prior to the delivery of water provided from or conveyed through Federally
6 constructed or Federally financed facilities pursuant to this contract, the Contractor shall be
7 implementing an effective water conservation program based on the Contractor's water
8 conservation plan that has been determined by the Contracting Officer to meet the conservation
9 and efficiency criteria established under Federal law. The water conservation program shall
10 contain definite water conservation objectives, appropriate economically feasible water
11 conservation measures, and time schedules for meeting those objectives.

12 (b) Should the combined amount of M&I Water delivered pursuant to
13 subdivision (a) of Article 3 during the term of this interim renewal contract equal or exceed
14 2,000 acre-feet, the Contractor shall implement the Best Management Practices identified by and
15 the time frames issued by the California Urban Water Conservation Council unless any such
16 practice is determined by the Contracting Officer to be inappropriate for the Contractor.

17 (c) As part of the water conservation program, the Contractor shall develop
18 and be implementing a tiered block water pricing program that promotes conservation and the
19 efficient management of Project Water during the term of this contract. Such pricing program for
20 Project Water shall take into account all relevant circumstances, including without limitation,
21 water shortages imposed under this interim renewal contract and the availability and cost of the

1 Contractor's and individual water user's non-Project alternative sources of supply, including
2 ground water and other non-Project water supplies, so that the Contractor's pricing structure
3 provides incentives for conservation and the efficient management of overall water supply
4 available to water users served by the Contractor. Provided, That no such tiered block water
5 pricing program need be implemented by the Contractor if the Contracting Officer determines,
6 based on information provided by the Contractor, that (i) such a pricing structure will not result
7 in significant conservation of water available for use within the Contractor's service area,
8 including ground water or (ii) other pricing program, conservation or management measures are
9 more appropriate and/or will result in comparable or better conservation of the water supplies
10 available within the Contractor's boundaries. Provided further, If the Contractor fails to, or elects
11 not to, comply with this subdivision of Article 25, then any subsequent interim renewal contract
12 shall contain a tiered pricing contractual provision pursuant to subsection (d) of Section 3405 of
13 the CVPIA.

14 (d) The Contractor shall submit to the Contracting Officer by
15 December 31, of each Calendar Year, an annual report on the status of its implementation of the
16 water conservation program.

17 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

18 26. Except as specifically provided in Article 17 of this contract, the provisions of this
19 interim renewal contract shall not be applicable to or affect water or water rights now owned or
20 hereafter acquired by the Contractor or any user of such water within the Contractor's Boundaries
21 from other than the United States by the Contractor. Any such water shall not be considered

1 Project Water under this contract. In addition, this interim renewal contract shall not be
2 construed as limiting or curtailing any rights which the Contractor or any water user within the
3 Contractor's Boundaries acquires or has available under any other contract pursuant to the
4 Federal Reclamation law.

5 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

6 27. (a) The operation and maintenance of a portion of the Canal Facilities, and
7 responsibility for funding the costs of such operation and maintenance, has been transferred to an
8 Operating-Non-Federal Entity by separate agreement between the United States and the
9 Operating Non-Federal Entity. That separate agreement shall not interfere with the rights or
10 obligations of the Contractor or the United States hereunder.

11 (b) Since the Contracting Officer has notified the Contractor in writing that
12 the operation and maintenance of a portion of the Canal Facilities has been transferred to an
13 Operating Non-Federal Entity, the Contractor shall pay directly to such Operating Non-Federal
14 Entity all rates, charges, or assessments of any kind, including any assessment for reserve funds,
15 which the Operating Non-Federal Entity determines, sets, or establishes for the operation and
16 maintenance of the portion of the Canal Facilities operated and maintained by the Operating
17 Non-Federal Entity, all in compliance with all provisions of Article 7 hereof. The Contractor
18 shall also submit to the Non-Federal Entity, as fiscal agent for the Secretary, that portion of the
19 Contractor's obligation to the United States for its allocated share of the Project construction
20 costs and its allocated share of the remaining operation and maintenance costs for the Project.

1 (c) Because of the transfer of operation and maintenance of the Canal
2 Facilities to an Operating Non-Federal Entity, the Contracting Officer shall adjust accordingly
3 the portions of the Rates for water under this Contract representing operation and maintenance
4 costs of the Canal Facilities that the Operating Non-Federal Entity assesses and collects directly.

5 (d) In the event the operation and maintenance of the portion of the Canal
6 Facilities transferred to the Operating Non-Federal Entity is reassumed by the United States
7 during the term of this contract, the Contracting Officer shall so notify the Contractor, in writing,
8 and present to the Contractor a revised Exhibit B which shall include the portion of the Rates for
9 water under this contract representing the operation and maintenance costs of the portion of the
10 Canal Facilities which has been reassumed. The Contractor shall thereafter, and in the absence
11 of written notification from the Contracting Officer to the contrary, pay the Rates specified in the
12 revised Exhibit B directly to the United States, in compliance with Article 7 herein.

13 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

14 28. The expenditure or advance of any money or the performance of any obligation of
15 the United States under this contract shall be contingent upon appropriation or allotment of
16 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
17 obligations under this contract. No liability shall accrue to the United States in case funds are not
18 appropriated or allotted.

19 BOOKS RECORDS AND REPORTS

20
21
22 29. The Contractor shall establish and maintain accounts and other books and records
23 pertaining to administration of the terms and conditions of this contract, including: the
24 Contractor's financial transactions, water supply data, and Project land and right-of-way
25 agreements; the water users' land-use (crop census), landownership, land-leasing and water use
26 data; and other matters that the Contracting Officer may require. Reports thereon shall be
27 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
28 Officer may require. Subject to applicable Federal laws and regulations, each party to this

1 contract shall have the right during office hours to examine and make copies of the other party's
2 books and records relating to matters covered by this contract.

3
4 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED
5

6 30. (a) The provisions of this contract shall apply to and bind the successors and
7 assigns of the parties hereto, but no assignment or transfer of this contract or any right or interest
8 therein shall be valid until approved in writing by the Contracting Officer.
9

10 (b) The assignment of any right or interest in this interim renewal contract by
11 either party shall not interfere with the rights or obligations of the other party to this interim
12 renewal contract absent the written concurrence of said other party.

13 SEVERABILITY

14 31. In the event that a person or entity who is neither (i) a party to a Project interim
15 renewal contract, nor (ii) a person or entity that receives Project Water from a party to a Project
16 interim renewal contract, nor (iii) an association or other form of organization whose primary
17 function is to represent parties to Project interim renewal contracts, brings an action in a court of
18 competent jurisdiction challenging the legality or enforceability of a provision included in this
19 interim renewal contract and said person, entity, association, or organization obtains a final court
20 decision holding that such provision is legally invalid or unenforceable and the Contractor has
21 not intervened in that lawsuit in support of the plaintiff(s), the parties to this interim renewal
22 contract shall use their best efforts to (i) within thirty (30) days of the date of such final court
23 decision identify by mutual agreement the provisions in this interim renewal contract which must
24 be revised, and (ii) within three (3) months thereafter promptly agree on the appropriate
25 revision(s). The time periods specified above may be extended by mutual agreement of the

1 parties. Pending the completion of the actions designated above, to the extent it can do so
2 without violating any applicable provisions of law, the United States shall continue to make the
3 quantities of Project Water specified in this interim renewal contract available to the Contractor
4 pursuant to the provisions of this interim renewal contract which were not found to be legally
5 invalid or unenforceable in the final court decision.

6 OFFICIALS NOT TO BENEFIT

7 32. No Member of or Delegate to Congress, Resident Commissioner or official of the
8 Contractor shall benefit from this contract other than as a water user or landowner in the same
9 manner as other water users or landowners.

10 CHANGES IN CONTRACTOR'S BOUNDARIES

11
12
13 33. While this contract is in effect, no change may be made in the Contractor's
14 boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger or otherwise,
15 except upon the Contracting Officer's written consent.

16 NOTICES

17
18
19 34. Any notice, demand, or request authorized or required by this contract shall be
20 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
21 delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation, 16349
22 Shasta Dam Boulevard, Shasta Lake, California 96019-8400 and on behalf of the United States,
23 when mailed, postage prepaid, or delivered to the Board of Directors of the Thomes Creek Water
24 District, PO Box 1017, 22240 Gallagher Avenue, Corning, California 96021. The designation of
25 the addressee or the address may be changed by notice given in the same manner as provided in
26 this Article for other notices.
27
28

1 IN WITNESS WHEREOF, the parties hereto have executed this interim renewal contract as of
2 the day and year first above written.
3

4
5 THE UNITED STATES OF AMERICA

THOMES CREEK WATER DISTRICT

6
7
8
9 By: /s/ Kirk C. Rodgers
10 Acting Regional Director
11 Mid-Pacific Region
12 Bureau of Reclamation
13

By: /s/ Robert A. Williams
President

14 Attest: /s/ Helen Moran
15 ~~Secretary~~ Clerk
16

17 (SEAL)

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY

/s/ James E. Turner

OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR